

Notice of Allowability

Application No.		Applicant(s)	
10/099,838		NISHI ET AL.	
Examiner		Art Unit	
LaShanya R. Nash		2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an after final amendment filed 4 June 2007.
2. ☒ The allowed claim(s) is/are 1, 4, 5, 7-11, 13, 15-21 and 27-28.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

WILLIAM VAUGHN
 SUPERVISORY PATENT EXAMINER
 TECHNOLOGY CENTER 2100

DETAILED ACTION

This Office action is in response to an after final amendment mailed 4 June 2007.

Claims 2-3, 6, 12, 14, and 22-26 are cancelled. Claims 1, 4-5, 7-11, 13, 15-21 and 27-28 are presented for further consideration. Claims 1, 8 and 13 are currently amended.

Allowable Subject Matter

Claims 1, 4-5, 7-11, 13, 15-21 and 27-28 are allowed.

Reasons for Allowance

The after final amendment mailed 4 June 2007 amended claims 1, 8 and 13. Therefore claims 1, 4-5, 7-11, 13, 15-21, and 27-28 are allowed. Pursuant to 37 C.F.R. 1.109 and M.P.E.P. 1302.14, the following is an Examiner's Statement of Reasons for Allowance:

Claim 1 is directed toward a data distribution system wherein the distribution server is provided a congestion monitor indicating unit and a network cache apparatus is provided a congestion monitor responding unit. The distribution server and the network cache communicate via a network. The aforementioned communication determines a congestion state, prior to transmitting data simultaneously with a valid term of distribution. Examiner asserts that these limitations inter alia, are a non-obvious modification to the teachings of the prior art of record, and thusly are patentably distinct over the aforementioned prior art.

Claim 8 is directed toward a data distribution server wherein the distribution server is provided a congestion monitor indicating unit, communicating via a network with the congestion monitor responding unit of the network cache apparatus. The aforementioned communication determines a congestion state, prior to transmitting data simultaneously with a valid term of distribution. Examiner asserts that these limitations inter alia, are a non-obvious modification to the teachings of the prior art of record, and thusly are patentably distinct over the aforementioned prior art.

Claim 13 is directed toward a network cache apparatus wherein the network cache apparatus is provided a congestion monitor responding unit, communicating via a network with the congestion monitor indicating unit of the distribution server. The aforementioned communication determines a congestion state, prior to transmitting data simultaneously with a valid term of distribution. Examiner asserts that these limitations inter alia, are a non-obvious modification to the teachings of the prior art of record, and thusly are patentably distinct over the aforementioned prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShanya R. Nash whose telephone number is (571) 272-3957. The examiner can normally be reached on 9am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LaShanya Nash *LN*
AU 2153
June 18, 2007

W. J. Vaughn
WILLIAM VAUGHN
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